

5:06cv70

Defendants.

JUDGMENT

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that

- (1) plaintiff's Motion for Summary Judgment (#49) is **DENIED** without prejudice and without reaching the merits of such claim and Shook's counterclaim for defamation is **DISMISSED** without prejudice as to refiling in state court in accordance with 28 U.S.C. § 1367(c)(3);
- (2) Defendant Shook's and Western Surety Company's (hereinafter "Shook") Motion for Summary Judgment (#51), and Watauga County's (hereinafter "county") Motion for Summary Judgment (#54) are **GRANTED** in part and **DENIED** in part as follows:
 - (a) summary judgment is **GRANTED** in favor of all defendants and against plaintiff on plaintiff's second cause of action, providing that:
 - (1) the Title VII claims are **DISMISSED** without prejudice as to bringing a claim under the GERA if such may still be brought;
 - (2) the Section 1983 claim is **DISMISSED** without prejudice as to bringing a claim under the GERA if such may still be brought; and
 - (3) the state Chapter 143-422.2 claim is **DISMISSED** with prejudice for failure to state a claim cognizable as a matter of state law;
 - (b) summary judgment is **GRANTED** in favor of all defendants and against plaintiff on plaintiff's third and fourth causes of action,

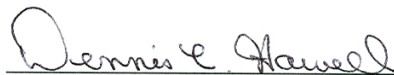
providing that plaintiff have and take nothing of these defendants on such causes of action, and such are **DISMISSED** with prejudice.

(c) summary judgment is **DENIED** without prejudice as to plaintiff's first cause of action inasmuch as the court will not reach the merits of this claim, but instead dismiss such claim without prejudice as to reasserting such claim in state court, as provided by 28 U.S.C. § 1367(c)(3);

(3) defendants' Motion to Strike Portions of Plaintiff's Affidavit (#70) is **DENIED** without prejudice as to reasserting the substance of such at trial, if necessary, and

all other claims, counterclaims, or other requests not otherwise addressed are **DISMISSED**, and this action is terminated.

Signed: October 17, 2007

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Dennis L. Howell
United States Magistrate Judge

